CAlifornians for Renewable Energy, Inc. (CARE)

821 Lakeknoll Dr.
Sunnyvale CA 94089

To: EPA Office of Civil Rights
Attn: Yasmin Yorker-Title VI Team Leader
Yorker.yasmin@epamail.epa.gov
U.S. EPA
Ariel Rios Building
Office of Civil Rights
1200 Pennsylvania Ave., MC1201
Washington D.C. 20460

To: EPA Office of Environmental Justice
Attn: Barry Hill Director
hill.barry@epa.gov
U.S. EPA
Ariel Rios Building
Office of Civil Rights
1200 Pennsylvania Ave., MC2201A
Washington D.C. 20460

Ref: Amendment 4 to CARE S OCR complaint of 4-16-00 to INCLUDE EVIDENCE OF CALIFORNIA ENERGY COMMISSION S ADMISSION TO VIOLATIONS OF TITLE VI CASE#2R-00-R9

In the 4-16-00 original OCR and OEJ complaint Complainant s contended that the California Energy Commission (CEC) had violated Title VI of the Civil Rights Act in it permitting of 98-AFC-1 and 98-AFC-3. In a recent report dated 6/9/00 titled *ISSUE IDENTIFICATION REPORT Contra Costa Power Plant, Unit 8 Project* the CEC indicated that the City of Pittsburg is 64 percent minority and (now) as an environmental justice population as cited from the Environmental Justice section of this report. The entire report is included as exhibit I.

> The demographics for Contra Costa County indicate that there are about 46 percent minorities residing within the county; 64 percent minorities residing within the City of Pittsburg; and 30 percent minorities residing within the City of Antioch. At this time staff does not know the demographics of the affected area of the project because the affected area has not been defined by staff. However, based on the pending complaint with USEPA, existing industrial land uses in the area, and the potential for demographics to indicate the presence of an environmental justice population, staff believes there is a strong potential for environmental justice issues and impacts in East Contra Costa County. The staff is in the process of investigating the geographic extent of the project impacts, identifying interested parties in the project area likely to be involved with environmental justice issues, and hosting meetings to solicit concerns of those interested parties.

Complainants contend that this provides further evidence of discrimination in the CEC s consideration of 98-AFC-1 and 98-AFC-3.

Michael E. Boyd 6-23-00
President-CARE

Joe Hawkins 6-23-00
Community Health First

Jim MacDonald-trustee 6-23-00
Pittsburg Unified School District

:ate Of California **Exhibit I** The Resources Agency of California

l e m o r a n d u m

Date: June 9, 2000
Telephone: ATSS((916) 654-4176)
File: S/projects/delta/issuerpt.doc

› : William Keese, Presiding Member
Michal Moore, Associate Member

'om : **California Energy Commission** - Kae C. Lewis
1516 Ninth Street Energy Commission Project Manager
Sacramento, CA 95814-5512

ubject : **ISSUE IDENTIFICATION REPORT Contra Costa Power Plant, Unit 8 Project**

Attached is our Issue Identification Report for the Contra Costa Power Plant, Unit 8 Project (00-AFC-1). This report serves as a preliminary scoping document identifying issues that we believe to be potentially significant. We will present the issues report at the Committee's scheduled Informational Hearing on June 12, 2000.

Attachment

cc: Proof of Service (00-AFC-1)
Ray Menebroker, ARB
Michael Ramsey, City of Antioch
Steve Hill, BAAQMD
Peter Mackin, CAL-ISO
Michael Aceitumo, National Marine Fisheries Service
Matt Haber, U.S. EPA, Reg. IX
Susan Strachan, Calpine Corporation
Frank Tsai, PG&E Transmission Services
Joe Hawkins, CHIEF
Paulette LaGrana, CAP-IT
Douglas Ward, Antioch Community Development Dept.
Keyan Moghbel, S.F. Bay Area Regional Water Quality Control Board
Carl Wilcox, California Department of Fish and Game
Dale Shileikis, Dames and Moore
Bob Drake, Contra Costa Planning Dept.

CAlifornians for Renewable Energy, Inc. (CARE)
821 Lakeknoll Dr.
Sunnyvale CA 94089

Issue Identification Report

Contra Costa Power Plant Unit 8 Project (00-AFC-1)

June 2000

CALIFORNIA ENERGY COMMISSION

Energy Facilities Siting and Environmental Protection Division

Kae C. Lewis, Project Manager

ISSUE IDENTIFICATION REPORT
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ISSUE IDENTIFICATION REPORT
Contra Costa Power Plant
Unit 8 Project (00-AFC-1)

This report has been prepared by the California Energy Commission staff to inform the Committee and all interested parties of the potential issues that have been identified in the case thus far. These issues have been identified as a result of our review of the Contra Cost Power Plant (CCPP), Unit 8 Project Application for Certification (AFC), Docket Number 00-AFC-1. The Issue Identification Report contains a project description, a summary of potentially significant environmental issues, and a discussion of a proposed project schedule.

PROJECT DESCRIPTION

On January 31, 2000 the Southern Energy Delta Limited Liability Company (SED) filed an Application for Certification with the California Energy Commission to construct and operate the CCPP Unit 8 Project. The project as proposed will be a nominal 530 megawatt (MW), natural gas-fired, combined cycle, electric generation facility to be located within the existing Contra Costa Power Plant site complex in Contra Costa County, just north of the City of Antioch. The CCPP site is on Wilbur Avenue, one mile northeast of Antioch, on the southern shore of the San Joaquin River. Highway 4 and the Antioch Bridge are just east of the site. Immediately south and west of the site are existing industrial facilities. The river borders the north side, while a recreational marina, open space and additional industrial land uses are located east of the proposed project.

The CCPP site complex measures about 200 acres. The proposed Unit 8 would occupy 20 acres of the northeast corner of the complex. Pacific Gas and Electric Company (PG&E) originally constructed the CCPP complex in 1951. Units 4 and 5 were added in 1953, while Units 6 and 7 were placed in operation in 1964. The original Units 1, 2 and 3 were retired in 1994, while Units 4, 5 (synchronous condensers), 6 and 7 continue to be operational. The existing units are conventional natural gas-fired boilers that use once-through cooling. Existing power capacity is 680 MW. Southern Energy Delta purchased the CCPP from PG&E in April of 1999.

CCPP Unit 8 s combined cycle power unit would consist of two natural gas-fired combustion turbine generators, two heat recovery steam generators (HRSGs), and a steam turbine generator. In the combined cycle process, electricity is created from the combustion turbines and the steam turbine. Natural gas is burned to fire the combustion turbines. Exhaust heat from the two combustion turbines is then used to generate steam in the HRSGs, which in turn drives the steam turbine electricity generator. The combined cycle process is considered to be state of the art in that it creates electricity more efficiently —and creates less pollution — than conventional power systems.

The natural gas fuel for Unit 8 would be supplied by the existing gas pipeline. Cooling water for Unit 8 would be supplied by re-use of the cooling water from the existing Units 6 and 7. According to the applicant s project description, no net increase in water withdrawal from the San Joaquin River is anticipated. Additional project facilities would include two 195-foot tall exhaust stacks on the heat recovery steam generators, a 10-cell water cooling tower, a turbine building, storage tanks, a control building, and electrical power transformers and transmission facilities to interconnect with the existing PG&E switchyard on the CCPP site complex. As described by the applicant, no additional electric transmission lines outside of the CCPP complex are needed to transmit Unit 8 s electricity to the regional transmission grid.

SED proposes to begin construction in early 2001, and start operation of CCPP Unit 8 by late 2002 or early 2003. The proposed project is estimated to cost between $250 and $300 million. During the peak of the 22-month construction period, approximately 285 construction workers would be employed. During operation, the CCPP Unit 8 would require 10 additional full time employees to the existing CCPP workforce of 53 employees.

CCPP Unit 8 would be operated as a merchant power facility, selling its energy via direct sales agreements and in the spot market via the California Power Exchange. Energy output and operational levels would vary according to demand in the deregulated California energy market.

POTENTIAL ISSUES

This portion of the report contains a discussion of the potential issues the Energy Commission staff has identified to date. The Committee should be aware that this report may not include all the significant issues that may arise during the case, as discovery is not yet complete, and other parties have not had an opportunity to identify their concerns. The identification of the potential issues contained in this report was based on our judgement of whether any of the following circumstances will occur:

- significant impacts may result from the project which may be difficult to mitigate;
- the project as proposed may not comply with applicable laws, ordinances regulations or standards (LORS);
- conflicts arise between the parties about the appropriate findings or conditions of certification for the Energy Commission decision that could result in a delay in the schedule.

The following table lists all the subject areas evaluated and notes those areas where significant issues have been identified. Even though an area is identified as having no potential issues, it does not mean that no issue will arise related to the subject area. For example, disagreements regarding the appropriate conditions of certification may arise between staff and applicant

that will require discussion at workshops or even subsequent hearings. However, we do not believe such an issue will have an impact on the case schedule or that resolution will be difficult.

The following discussion summarizes each potential issue, identifies the parties needed to resolve the issue and suggests a process for achieving resolution. At this time, we do not see any of these potential issues as unresolvable. We plan to use this report to focus our analysis on issues that will be included in the Preliminary Staff Assessment and Final Staff Assessment.

Potential Issue	Subject Area	Potential Issue	Subject Area
Yes	**Air Quality**	No	Noise
No	Alternatives	No	Paleontologic Resources
Yes	**Biological Resources**	No	Public Health
No	Cultural Resources	**Yes**	**Environmental Justice** (Socioeconomics)
No	Efficiency and Reliability	No	Soils
No	Electromagnetic Fields & Health Effects	No	Traffic and Transportation
No	Facility Design	No	Transmission Line Safety
No	Geological Resources	**Yes**	**Transmission System Engineering**
No	Hazardous Materials	**Yes**	**Visual Resources**
No	Industrial Safety and Fire Protection	No	Waste Management
No	Land Use	**Yes**	**Water Resources**

AIR QUALITY

There are two potentially critical air quality issues that may affect the timing and possible outcome of the licensing process for the Contra Costa Unit 8 Project. They include 1) the provision of emission reduction credits (or offsets); and, 2) the outcome of the cumulative air quality impact analysis.

ACQUISITION OF EMISSION REDUCTION CREDITS

Staff believes that obtaining additional emission reduction credits (ERCs) to offset the project s particulate matter (PM10) and volatile organic compounds (VOC) emissions could potentially affect the schedule of the project licensing.

SED indicates that they are currently negotiating with other sources that own PM10 and VOC ERCs that could be used to offset the project emissions liability. Based on the submitted information (under confidential status), many of the available emission reduction credits are currently being processed or plan to be submitted to the Bay Area Air Quality Management District (Bay Area AQMD) for approval. Concerns may be raised about the calculation methods, the location of the offsets sources, and the adjustment of the reasonably available control technology (RACT) to satisfy the requirements of local, state, and federal laws. Consequently, the offsets proposed may not be sufficient to satisfy the project s offset liability. In addition, these potential offsets must be banked prior to use for a new application such as the Contra Costa Project. It is uncertain when these banking actions will be finalized which could delay the Bay Area AQMD issuing a Preliminary Determination of Compliance for this project.

CUMULATIVE AIR QUALITY IMPACT ANALYSIS

Because of the number and proximity of other power plants in East Contra Costa County, staff will conduct a cumulative impact analysis which evaluates whether or not estimated emissions concentrations may cause or contribute to a violation of any ambient air quality standard. Staff will include the results of the modeling analysis, along with a discussion of potential mitigation measures, if needed, in its Preliminary Staff Assessment.

BIOLOGICAL RESOURCES

Unit 8 will utilize the existing cooling system for Units 6 and 7 for cooling makeup water. Their once-through cooling water systems, which will be used by Unit 8, is an inefficient technology with documented, long-term impacts to Delta aquatic organisms from cooling water entrainment at the Contra Costa site that have resulted in take of endangered species, primarily Delta smelt and chinook salmon.

Although Units 6 and 7 may represent an environmentally inefficient technology, they are still commercially viable. In considering the future of the Contra Costa site, it is important to understand the relationship between Unit 8 and the operational life of Units 6 and 7. Presumably, the commercial viability of Units 6 and 7 is and will be based solely on market conditions and engineering criteria. The staff will need to be satisfied that the proposed Unit 8 will not prolong the use of Units 6 and 7 beyond reasonably anticipated market conditions.

It is ultimately expected that Unit 8 will outlive the operation of Units 6 and 7. In that case, the staff would like to be assured that a stand alone Unit 8 would utilize the most efficient and environmentally sound cooling water technology. The staff will work with the applicant to identify potential changed conditions and develop appropriate conditions of certification.

ENVIRONMENTAL JUSTICE

East Contra Costa County encompasses the cities of Antioch and Pittsburg, and the unincorporated community of Bay Point. East Contra Costa County is characterized largely by industrial uses. If approved, Contra Costa Power Plant Unit 8 will be the eleventh power plant in East Contra Costa County.

Intervenors in the Los Medanos and Delta power plant proceedings have filed a complaint with the US Environmental Protection Agency (USEPA) Office of Civil Rights for violations of Title VI. Title VI of the Civil Rights Act of 1964 is the legal basis for community groups to file lawsuits against an agency when that agency has failed to consider environmental justice impacts in its environmental review of a project. The complainants state that both projects approved in the City of Pittsburg will further inflict disparate impacts from criteria pollutants on low-income and minority populations in Contra Costa County.

The demographics for Contra Costa County indicate that there are about 46 percent minorities residing within the county; 64 percent minorities residing within the City of Pittsburg; and 30 percent minorities residing within the City of Antioch. At this time staff does not know the demographics of the affected area of the project because the affected area has not been defined by staff. However, based on the pending complaint with USEPA, existing industrial land uses in the area, and the potential for demographics to indicate the presence of an environmental justice population, staff believes there is a strong potential for environmental justice issues and impacts in East Contra Costa County. The staff is in the process of investigating the geographic extent of the project impacts, identifying interested parties in the project area likely to be involved with environmental justice issues, and hosting meetings to solicit concerns of those interested parties.

TRANSMISSION SYSTEM ENGINEERING

SED s AFC submittal contained a transmission interconnection planning report completed by a consultant. Before the staff can fully identify transmission issues, however, they will need to review the Detailed Facilities Study (DFS) which is prepared by the private transmission owner, PG&E, and submitted for approval to the CAL-ISO. It is critical that the DFS be submitted to the Energy Commission staff no later than July 15, 2000 so that transmission interconnection issues can be evaluated and possible mitigations can be developed in a timely manner.

WATER RESOURCES

The proposed Contra Costa Power Plant Unit 8 Project will use approximately 8100 acre feet of water per year, predominately for cooling water make-up. The following are the potential issues that relate to water supply and wastewater discharge.

ALTERNATIVE COOLING WATER SOURCES AND TECHNOLOGIES

Water supply for the proposed project is San Joaquin River water already diverted for once-through cooling by the existing Units 6 & 7. Staff will be evaluating alternative sources of cooling water as well as alternative sources of cooling technology such as dry and wet/dry cooling which may minimize water consumption and wastewater discharge.

RENEWAL OF NPDES PERMIT

SED currently has filed an application with the San Francisco Bay Regional Water Quality Control Board (RWQCB) to renew the National Pollutant Discharge Elimination System (NPDES) permit for the Contra Costa Power Plant. This request, however, does not address the proposed project. Because the San Joaquin River is listed as an impaired water body under Clean Water Act Section 303(d) which does not currently meet ambient water quality standards for several constituents, new discharges may face more stringent standards than existing discharges. Staff is working with the RWQCB to determine if the combined discharge from units 6, 7, and 8 is to be considered a new or existing discharge under the Clean Water Act. The issue may be complicated by Unit 8 s evaporative cooling system discharge which will have a higher chemical concentration than the once-through cooling discharge of Units 6 and 7.

Staff will request the applicant provide a draft NPDES permit issued by the RWQCB for the Unit 8 project at least 30 days prior to the date the Final Staff Assessment is scheduled to be released for this project.

INDUSTRIAL USE OF RECYCLED WATER

While the primary source of cooling water for this project is the brackish waters of the San Joaquin River, during days of heavy spring runoff when this source is too degraded for use, the project will rely on potable supplies from the City of Antioch. Staff is concerned about the consistency of the proposed project with Section 13550 et. Seq. of the Water Code regarding the use of potable water for industrial purposes when recycled water is available. This section of the water code prohibits the use of potable water for industrial uses if recycled water is available given certain factors including economic ones. Staff will be coordinating with the City of Antioch and submitting data requests to obtain information to evaluate compliance of the project with this code section.

VISUAL RESOURCES

The proposed power plant may cause significant visual impacts due to visible vapor plumes from the cooling tower. Although there is an existing power plant at the proposed site, that plant uses once-through cooling so it does not require a cooling tower. In contrast, the proposed power plant would use a wet cooling tower, which would create visible vapor plumes. Data presented in the AFC indicates that such plumes would typically be very large, often exceeding

the height of the tall stacks of the existing power plant. Such plumes would be a dominant element in views of the project site for long distances and may constitute a significant visual impact. The applicant has not proposed mitigation for this potential impact.

Visual impacts due to vapor plumes from cooling towers can be mitigated with existing technology. Staff will work with the applicant to develop appropriate mitigation through data requests, an issue workshop, and a resulting condition of certification.

PROCEDURAL ISSUES

We have begun our analysis of the potential issues identified above, as well as our assessment of other environmental and engineering aspects of the applicant s proposal. As noted above, the first step in that assessment will be the issuing of data requests to the applicant on June 27, 2000 in a number of technical areas. Over the next few months, we will conduct publicly noticed workshops to address identified concerns.

Our initial findings regarding the major issues discussed above, as well as other environmental and engineering findings will be presented in the PSA which is expected to be filed on October 27, 2000. After filing the PSA, we will conduct public workshops to discuss its findings, recommendations and proposed conditions of certification. Based on these workshop discussions and other information that may be provided, we will present our conclusions and recommendations in the Final Staff Assessment that is expected to be filed by December 29, 2000.

SCHEDULING

Key events will dictate whether staff will be able to meet these dates. The applicant must have timely responses to staff s data requests. It is critical to the project schedule that the applicant have a timely provision of ERCs. These must be provided by August 15, 2000, to allow the Bay Area AQMD to file its Preliminary Determination of Compliance (PDOC) on time. In addition, the applicant must initiate NPDES permit processes with the San Francisco Bay Regional Water Quality Board; and submit the Detailed Facility Study for transmission interconnection to Energy Commission staff by July 15, 2000.

The Energy Commission is currently reviewing 13 Applications for Certification for power plant projects, an SPPE, and expects to receive another AFC in the next two months. Staff is experiencing a staffing workload problem and has recently hired a consultant team to help with the peak workload. In light of the issues and the workload, staff believes that it will be challenging to meet a 12-month schedule. A typical 12-month schedule is attached.

Staff s Proposed Schedule for the Contra Costa Power Plant Unit 8

DATE	DAYS	EVENT
1/31/00	-	Contra Costa Power Plant Unit 8 AFC filed
5/17/00	0	Energy Commission Deems AFC Complete
6/12/00	26	Information Hearing, Issue Scoping & Site Visit
6/27/00	41	Staff files First Set of Data Requests
7/15/00	58	Applicant Provides PG&E s Detailed Facilities Study to CEC; Cal-ISO provides comments on PG&E s Detailed Facilities Study
7/27/00	71	Data Request Responses Due From Applicant
8/15/00	90	Applicant submits all ERCs to Bay Area AQMD
9/17/00	120	Bay Area AQMD Files Preliminary Determination Of Compliance (PDOC)
10/27/00	165	Staff Files Preliminary Staff Assessment (PSA)
11/6/00	175	Staff holds various PSA workshops
11/17/00	180	Bay Area Air District Files Final DOC
12/11/00	210	Prehearing Conference
12/29/00	225	Staff Files Final Staff Assessment (FSA)
1/17/01 - 1/30/01	245 258	Evidentiary Hearings
3/14/01	300	Committee issues Presiding Member s Proposed Decision
5/14/01	365	Adopt Decision